

§ 20.704

party on whom it was originally placed.

§ 20.704 Scheduling and notice of hearing.

(a) The Administrative Law Judge shall be responsible for scheduling the hearing. With due regard for the convenience of the parties, their representatives, or witnesses, the Administrative Law Judge, as early as possible, shall fix the time, place, and date for the hearing and shall notify all parties and interested persons.

(b) A request for a change in the time, place, or date of a hearing may be granted by the Administrative Law Judge.

(c) At any time after commencement of a proceeding, any party may move to expedite the scheduling of a proceeding. A party moving to expedite a proceeding shall—

(1) Describe the circumstances justifying the motion to expedite; and

(2) Incorporate in the motion affidavits to support any representations of fact.

(d) Following timely receipt of the motion and any responses, the Administrative Law Judge may expedite pleading schedules, prehearing conferences, and the hearing, as appropriate.

§ 20.705 Failure to appear.

A default under § 20.310 may be entered against a respondent failing to appear at a hearing unless—

(a) Prior to the time for the hearing, the respondent shows good cause as to why neither the respondent nor the respondent's representative can appear; or

(b) Within 30 days of an order to show good cause, the respondent shows good cause for failure to appear.

§ 20.706 Witnesses.

(a) Witnesses shall testify under oath or affirmation.

(b) If a witness fails or refuses to testify, the failure or refusal to answer any question found by the Administrative Law Judge to be proper shall be grounds for striking all or part of the testimony which may have been given by the witness, or for any other action

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deemed appropriate by the Administrative Law Judge.

§ 20.707 Telephone testimony.

(a) The Administrative Law Judge may order that testimony of a witness be taken by telephone conference call. A person presenting evidence may request by motion to have testimony taken by telephone conference call. The telephone conference call will be arranged so that all participants can listen to and speak to each other in the hearing of the Administrative Law Judge. The Administrative Law Judge shall ensure that all participants in the telephone conference are properly identified to allow a proper record to be made by the reporter. Telephone conferences are governed by this part.

(b) A witness may be subpoenaed to testify by telephone conference call. The subpoena in such instances is issued under the procedures in § 20.608.

§ 20.708 Witness fees.

(a) Witnesses summoned in a class II civil penalty proceeding shall receive the same fees and mileage as witnesses in the courts of the United States.

(b) The party or interested person who calls a witness is responsible for any fees and mileage to be received by the witness under paragraph (a) of this section.

§ 20.709 Closing of the record.

At the conclusion of the hearing, the record of the proceeding, as described in § 20.903, will be closed unless the Administrative Law Judge directs otherwise. Once the record is closed, it may be reopened at the discretion of the Administrative Law Judge. The Administrative Law Judge may correct the transcript of the hearing by appropriate order.

§ 20.710 Proposed findings, closing arguments, and briefs.

Before the Administrative Law Judge's decision and upon terms which the Administrative Law Judge may find reasonable, any party shall be entitled to file a brief, a proposed findings of fact and conclusions of law, or both. Before the close of the hearing, the Administrative Law Judge may hear oral argument to the extent the